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and Seymour

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
EUGENE DIVISION

ANDREW CLARK

Case No. 6:20-cv-00253-AA

Plaintiff,

vs.

WELLS FARGO BANK, OGLETREE
DEAKINS NASH SMOAK STEWART,
P.C., OREGON BAR ASSOCIATION,
LEAH C LIVELY, DAVID P.R. SYMES,
CHRISTOPHER MIXON, MICHAEL
HOGAN, ALEX GARDNER, ERIK
HASSELMAN, STEVEN SEYMOUR,
CHRISTIAN ROWLEY, BENJAMIN
GUTMAN, BARRY DAVIS, DAVID
CAMPBELL, BRUCE NEWTON,
PETER URIAS, ELLEN ROSEBLUM,
SABASTIAN NEWTON TAPIA, BEN
MILLER, and VANESSA NORDYKE

Defendants.

**DECLARATION OF JOHN POLLINO
IN SUPPORT OF DEFENDANTS'
OGLETREE, DEAKINS, NASH,
SMOAK, STEWART, P.C., LEAH
LIVELY, DAVID P.R. SYMES,
CHRISTOPHER MIXON, AND STEVEN
SEYMOUR'S MOTION TO DISMISS,
MOTION FOR PROTECTIVE ORDER,
AND MOTION TO DECLARE
PLAINTIFF A VEXATIOUS LITIGANT**

I, John Pollino, under penalty of perjury, hereby declare as follows:

1. I am an attorney licensed to practice law in the state of Oregon.

2. I am the attorney of record for Ogletree, Deakins, Nash, Smoak, Stewart, P.C., Leah Lively, David P.R. Symes, Christopher Mixon, and Steven Seymour ("Defendants Ogletree Deakins") in Case No. 6:20-cv-00253-AA.

3. I make this Declaration based upon personal knowledge and am competent to testify to all facts herein.

4. Attached to this Declaration as **Exhibit 1** is a true and correct copy of the Complaint in *Wells Fargo Bank, N.A. v. Clark*, No. 6:11-cv-06248-HO, 2012 US Dist LEXIS 145145, (D. Or. Oct. 5, 2012) ("*Clark I*").

5. Attached to this Declaration as **Exhibit 2** is a true and correct copy of the Decision and Order Granting Respondent's Motion for Summary Decision in the Department of Labor Complaint filed by Plaintiff, No. 2012-SOX-00003.

6. Attached to this Declaration as **Exhibit 3** is a true and correct copy of the Order Granting Plaintiff's Motion for Summary Judgment and Second Motion for Contempt against Andrew Clark in *Clark I*.

7. Attached to this Declaration as **Exhibit 4** is a true and correct copy of the Order Awarding Attorneys' Fees against Andrew Clark in *Clark I*.

8. Attached to this Declaration as **Exhibit 5** is a true and correct copy of the Complaint in *Clark v. Wells Fargo Bank, N.A.*, No. 6:13-cv-01546-AA, 2014 US Dist LEXIS 90114, (D. Or. July 1, 2014) ("*Clark III*").

9. Attached to this Declaration as **Exhibit 6** is a true and correct copy of the Memorandum in Support of Defendant's Motion for Appointment of Guardian Ad Litem for Plaintiff, or in the Alternative, for Dismissal in *Clark III*.

10. Attached to this Declaration as **Exhibit 7** is a true and correct copy of the Opinion and Order dismissing Plaintiff's case in *Clark III* against Wells Fargo.

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11. Attached to this Declaration as **Exhibit 8** is a true and correct copy of the Complaint in *Clark v. Hasselman*, No. 6:14-cv-01103-TC, 2016 US Dist LEXIS 83076 (D. Or. Apr. 4, 2016) (“*Clark IV*”).

12. Attached to this Declaration as **Exhibit 9** is a true and correct copy of the Order for Plaintiff to Show Cause in *Clark IV*.

13. Attached to this Declaration as **Exhibit 10** is a true and correct copy of the Findings and Recommendation issued by Magistrate Judge Thomas Coffin in *Clark IV*.

14. Attached to this Declaration as **Exhibit 11** is a true and correct copy of Plaintiff’s Response to Order to Show Cause in *Clark IV*, filed by Marianne Dugan, Plaintiff’s counsel.

15. Attached to this Declaration as **Exhibit 12** is a true and correct copy of the Order dismissing Ogletree, Deakins, Nash, Smoak & Stewart, P.C. with prejudice from *Clark IV*.

16. Attached to this Declaration as **Exhibit 13** is a true and correct copy of the Ninth Circuit’s Memorandum Opinion in Plaintiff’s appeal of the judgment against him in *Clark I*.

17. Attached to this Declaration as **Exhibit 14** is a true and correct copy of the civil docket for *Clark I*.

18. Attached to this Declaration as **Exhibit 15** is a true and correct copy of the criminal docket for Lane County Case No. 211314234, State of Oregon v. Andrew Clark.

19. Attached to this Declaration as **Exhibit 16** is a true and correct copy of the civil docket for *Clark III*.

20. Attached to this Declaration as **Exhibit 17** is a true and correct copy of the civil docket for *Clark IV*.

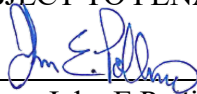
21. Attached to this Declaration as **Exhibit 18** is a true and correct copy of multiple communications from Plaintiff to various defendants in this matter from March 5, 2020, to March 23, 2020 (attorney-client privileged communications redacted).

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22. Attached to this Declaration as ***Exhibit 19*** is a true and correct copy of an email documenting that Plaintiff sent the same April 2, 2020 fax to at least 20 different Ogletree offices.

23. I certify that on April 8, 2020, I wrote to Plaintiff to confer regarding the dismissal of Plaintiff's complaint and to discuss the bases for the filing of the defendants' motions. Plaintiff disputed the bases for filing defendants' motions and thus the motions are submitted for the Court's consideration. True and correct copies of my communication and Plaintiff's responses are attached as ***Exhibit 20***.

I HEREBY DECLARE THAT THE ABOVE STATEMENT IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT I UNDERSTAND IT IS MADE FOR USE AS EVIDENCE IN COURT AND IS SUBJECT TO PENALTY FOR PERJURY.



John E Pollino

CERTIFICATE OF SERVICE

I hereby certify that I caused to be served the foregoing **Declaration of John Pollino in Support of Defendant's Motion to Dismiss and Declare Plaintiff a Vexatious Litigant** on the date indicated below,

- ☒ Via First-Class Mail with postage prepaid
- ☒ Via Electronic Filing
- ☐ Via Facsimile Transmission
- ☐ Via Hand Delivery
- ☐ Via Overnight Delivery

to the following person(s) a true copy thereof, contained in a sealed envelope (if other than by electronic filing notice), addressed to said person(s) at their last known addresses indicated below:

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DATED this 9th day of April, 2020.

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